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Of Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF OREGON
 EUGENE DIVISION

ROBERT D. AINSWORTH, TAMI L.)
 AINSWORTH, KARL G. FRINK,)
 LUCINDA A. FRINK, GORDON D.)
 GRISWOLD, ELAINE C. GRISWOLD,)
 JOHN K. LINDSEY, LINDA K. LINDSEY,)
 WILLIAM E. WHITAKER and SUZANNE)
 R. WHITAKER,)

Plaintiffs

v.

MARK ALLEN OWENBY, MICHELLE)
 ANNETTE PAGE, JENNY REBECCA)
 SILVEIRA, HOWARD DEE BROWN III,)
 WILLIAM WALTER TEMPLETON, JR.,)
 ELISHA TEMPLETON, BRYAN DAVID)
 PHILP and GUILD MORTGAGE)
 COMPANY,)

Defendants

No.

COMPLAINT

For Violation of
 18 USC § 1962 and Private
 Nuisance

COME NOW, Plaintiffs Robert D. Ainsworth, Tami L. Ainsworth, Karl G. Frink,

1 Lucinda A. Frink, Gordon D. Griswold, Elaine C. Griswold, John K. Lindsey, Linda K.
2 Lindsey, William E. Whitaker and Suzanne R. Whitaker, and hereby allege as follows.

3 **INTRODUCTION**

4 1.

5 Plaintiffs are rural Oregon property owners who have been damaged by a criminal
6 enterprise (the "Marijuana Operation") producing and processing marijuana at properties
7 in Linn County, Oregon and then trafficking that marijuana. Plaintiffs seek redress under
8 the Racketeer Influenced and Corrupt Organizations Act ("RICO"), which requires those
9 who engage in racketeering activity, including the production and sale of marijuana as a
10 controlled substance, to pay treble damages, reasonable attorneys' fees and costs to those
11 whom they injure. Plaintiffs also seek damages for private nuisance.

12 **JURISDICTION AND VENUE**

13 2.

14 Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction over claims
15 brought under 18 U.S.C. § 1964.

16 3.

17 Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because the
18 events giving rise to this action took place in, and continue to take place in, Linn County,
19 Oregon.

20 **PARTIES**

21 4.

22 Plaintiffs Robert D. Ainsworth and Tami L. Ainsworth (the "Ainsworth

1 | Plaintiffs”) are each natural persons who own and reside on two adjoining parcels of real
2 | property located at 30345 and 30349 Butte Creek Road in Lebanon, Oregon (the
3 | “Ainsworth Property”).

4 | 5.

5 | Plaintiffs Karl G. Frink and Lucinda A. Frink (the “Frink Plaintiffs”) are each
6 | natural persons who own and reside on real property located at 36336 Hillside Lane in
7 | Lebanon, Oregon (the “Frink Property”).

8 | 6.

9 | Plaintiffs Gordon D. Griswold and Elaine C. Griswold (the “Griswold Plaintiffs”)
10 | are each natural persons who own and reside on real property located at 36295 Hillside
11 | Lane in Lebanon, Oregon (the “Griswold Property”).

12 | 7.

13 | Plaintiffs John K. Lindsey and Linda K. Lindsey (the “Lindsey Plaintiffs”) are
14 | each natural persons who own and reside on real property located at 30656 Butte Creek
15 | Road in Lebanon, Oregon (the “Lindsey Property”).

16 | 8.

17 | Plaintiffs William E. Whitaker and Suzanne R. Whitaker (the “Whitaker
18 | Plaintiffs”) are each natural persons who own real property located at 36345 Hillside
19 | Lane in Lebanon, Oregon (the “Whitaker Property”).

20 | 9.

21 | Defendants Mark Allen Owenby (“Defendant Owenby”) and Michelle Annette
22 | Page (“Defendant Page”) are each natural persons resident in Albany, Oregon.

1 Defendants Owenby and Page own the real property located at 36340 Hillside Lane in
2 Lebanon, Oregon (the "Owenby/Page Property"). As further described herein, certain
3 defendants produced marijuana on the Owenby/Page Property for the Marijuana
4 Operation. As further described herein, Defendants Owenby and Page participated in
5 directing the affairs of the Marijuana Operation.

6 10.

7 Defendants William Walter Templeton, Jr. ("Defendant Bill Templeton") and
8 Elisha Templeton (the "Templeton Defendants") are each natural persons resident in
9 Albany, Oregon. As further described herein, the Templeton Defendants, in concert with
10 certain other defendants, developed the Owenby/Page Property for marijuana production
11 and processing, made financial investments in the Marijuana Operation, and participated
12 in directing the affairs of the Marijuana Operation.

13 11.

14 Defendants Jenny Rebecca Silveira ("Defendant Silveira") and Howard Dee
15 Brown III ("Defendant Brown") are each natural persons who reside on the Owenby/Page
16 Property. As further described herein, in concert with certain other defendants,
17 Defendants Silveira and Brown participated in directing the affairs of the Marijuana
18 Operation.

19 12.

20 Defendant Bryan David Philp ("Defendant Philp") is natural person resident in
21 Salem, Oregon. As further described herein, in concert with certain other defendants,
22 Defendant Philp participated in directing the affairs of the Marijuana Operation.

13.

Defendant Guild Mortgage Company (“Defendant Guild”) is a California corporation with its principal place of business in San Diego, California. Defendant Guild does business in Oregon and holds a mortgage on the Owenby/Page Property. As further described herein, Defendant Guild Mortgage knowingly allowed the Owenby/Page Property to be used for producing and processing marijuana, and knowingly received proceeds from marijuana produced and processed on the Owenby/Page Property.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

How the Marijuana Operation Began

14.

Plaintiffs are informed and believe that on or about 2014, the Templeton Defendants were producing marijuana at 6687 Peterson Lane in Albany, Oregon and trafficking it. In November 2014, Oregon voters approved statewide ballot Measure 91, which led to a series of state legislative actions decriminalizing recreational marijuana production, possession, use and distribution under state law. Accordingly, the Templeton Defendants sought to exploit the decriminalization of marijuana in Oregon by expanding their marijuana production and trafficking operation.

15.

On or about November 2016, the Templeton Defendants agreed with Defendants Owenby and Page to seek and acquire another property in Linn County, Oregon on which they could produce and process additional marijuana. On or about December 2016,

1 Defendants Owenby and Page purchased the Owenby/Page Property for this purpose, and
 2 the Templeton Defendants and Defendants Owenby, Page, Silveira and Brown agreed to
 3 develop the Owenby/Page Property to produce marijuana, and to erect structures,
 4 purchase and install equipment, fixtures and materials on the Owenby/Page Property for
 5 such purposes. Defendants Owenby and Page further agreed with the Templeton
 6 Defendants and Defendants Silveira and Brown that Defendants Owenby and Page would
 7 make a financial investment in the Marijuana Operation, and that in exchange,
 8 Defendants Owenby and Page would receive a portion of the proceeds from the
 9 Marijuana Operation.

10 16.

11 During the period from on or about November 2016 to the present, the Templeton
 12 Defendants and Defendants Owenby and Page engaged in a series of financial
 13 transactions via which they invested money in the Marijuana Operation.

14 **How the Owenby/Page Property Was Transformed**

15 **Into a Marijuana Production Site**

16 17.

17 On or about January 2017, Defendants Silveira and Brown moved onto the
 18 Owenby/Page Property for the purpose of setting up the marijuana production and
 19 processing operation on the Owenby/Page Property and managing the production and
 20 processing of marijuana.

21 18.

22 During the period from December 2016 – the present, the Templeton Defendants

1 and Defendants Owenby and Page purchased, and Defendants Bill Templeton, Owenby,
2 Page, Silveira, Brown and Philp installed, the following items on the Owenby/Page
3 Property for the purpose of producing and processing marijuana: Tables, insulation,
4 drywall, lighting, fans, climate control equipment and fixtures, electrical circuits,
5 plumbing and fixtures. During the period from December 2016-the present, the
6 Templeton Defendants and Defendants Owenby and Page purchased, and Defendants Bill
7 Templeton, Owenby, Page, Silveira, Brown and Philip brought to the Owenby/Page
8 Property the following items for the purpose of producing and processing marijuana:
9 Marijuana plants, planting media, plant containers, netting, pallets, diesel fuel, butane,
10 fungicides, fertilizers, pest control equipment and supplies, hand tools, butane containers,
11 trimming equipment, processing equipment and packaging materials.

12 19.

13 On or about January 2017, the Templeton Defendants and Defendants Owenby,
14 Page, Silveira, Brown and Philp converted a shop building on the Owenby/Page Property
15 into a fully operational marijuana production and processing facility.

16 20.

17 On or about June 2017, Defendants Bill Templeton, Owenby, Page, Silveira,
18 Brown and Philp graded land for a building site on the Owenby/Page Property. On or
19 about August 2017, Defendants Bill Templeton, Owenby, Page, Silveira, Brown and
20 Philp erected a large commercial greenhouse (the "Greenhouse") on the Owenby/Page
21 Property for the purpose of producing marijuana.
22

1 21.

2 On or about June 30, 2017, the Templeton Defendants and Defendants Owenby,
3 Page, Silveira, Brown and Philp also began producing marijuana outdoors on the
4 Owenby/Page Property.

5 22.

6 Throughout the period from on or about December 2016 to the present, the
7 Templeton Defendants and Defendants Owenby, Page, Silveira, Brown and Philp
8 produced marijuana on the Owenby/Page Property and distributed it for sale. Each of the
9 Templeton Defendants and Defendants Owenby, Page, Silveira, Brown and Philp
10 engaged in a series of financial transactions via which they received a portion of the
11 proceeds of the Marijuana Operation.

12 **Defendant Guild's Role in the Marijuana Operation**

13 23.

14 Defendant Guild holds the mortgage on the Owenby/Page Property. As the
15 mortgagee of the Owenby/Page Property, Defendant Guild controls the Owenby/Page
16 Property. On or about August 28, 2017, Plaintiff John Lindsey provided Defendant Guild
17 with written notice that marijuana was being produced on the Owenby/Page Property.
18 On or about September 7, 2017, Defendant Lindsey had a telephone call about the matter
19 with Michael Minicilli, Staff Attorney for Defendant Guild. On or about September 13,
20 2017, Mr. Minicilli sent Defendant John Lindsey a letter acknowledging August 28 letter
21 and stating Defendant Guild "is actively responding to the issues raised by your
22 correspondence." Plaintiff John Lindsey received no further communications from

1 Defendant Guild about the Owenby/Page Property. Plaintiffs are informed and believe
 2 that Defendant Guild took no action to curtail marijuana production on the Owenby/Page
 3 Property and knowingly allowed it to continue. Further, during the period from
 4 September 1, 2017 through the present, Defendant Guild knowingly received mortgage
 5 payments on the Owenby/Page Property from Defendants Owenby and Page that
 6 consisted of proceeds from marijuana produced and processed on the Owenby/Page
 7 Property.

8 **The Marijuana Operation's Impact on Plaintiffs and Their Properties**

9 24.

10 The unmistakable skunk-like stench of marijuana emanates from the
 11 Owenby/Page Property and pervades the Butte Creek Estates neighborhood in which
 12 Plaintiffs reside. On the Owenby/Page Property, Defendants Bill Templeton, Owenby,
 13 Page, Silveira, Brown, Philp and their associates regularly burn marijuana debris, trash
 14 and discarded items from the marijuana operation, creating thick, noxious smoke. The
 15 Greenhouse is equipped with large, commercial exhaust fans, which operate 24 hours a
 16 day, seven days a week.

17 25.

18 Prior to December 2016, the Butte Creek Estates neighborhood was quiet and
 19 tranquil. Butte Creek Road and Hillside Lane are both dead-end roads. Prior to
 20 December 2016, there was little traffic on Butte Creek Road, and traffic on Hillside Lane
 21 amounted to just a few vehicles per day, almost all of them residents going to and from
 22 their homes. Plaintiffs and their neighbors often stopped to chat along Hillside Lane, and

1 enjoyed walking their dogs on Hillside Lane. There was so little concern about crime
2 that Plaintiffs and their neighbors routinely left the doors to their houses and outbuildings
3 unlocked, even when they were not at home. Plaintiffs and their neighbors enjoyed
4 working in their flower and vegetable gardens, and eating meals and entertaining guests
5 outdoors on their properties.

6 26.

7 As a direct result of the Marijuana Operation, Hillside Lane and Butte Creek Road
8 have been transformed into busy, and at times unsafe, commercial roadways. Since on or
9 about December 2016, traffic on Hillside Lane and Butte Creek Road has increased
10 exponentially, and the vast majority of those vehicles are coming to and going from the
11 marijuana production and processing operation on the Owenby/Page Property, 24 hours a
12 day, seven days a week.

13 27.

14 The Ainsworth Property consists of approximately 5.0 acres. The northern
15 boundary line of the Ainsworth Property adjoins the southern boundary line of the
16 Owenby/Page Property. The Ainsworth Plaintiffs live on the Ainsworth Property, and
17 their brand new home is located approximately 300 feet from the southern boundary line
18 of the Owenby/Page Property. The picture window in the Ainsworths' bedroom looks
19 directly out onto the Greenhouse, which is located approximately 175 feet from the
20 northern boundary line of the Ainsworth Property. The constant fan noise and marijuana
21 stench emanating from the Owenby/Page Property interferes with the Ainsworth
22 Plaintiffs' use and enjoyment of the Ainsworth Property. For example, because of the

1 noise and odor, the Ainsworth Plaintiffs can no longer open the windows of their home or
2 enjoy sitting outside on their deck. When the odor is particularly strong, the Ainsworth
3 Defendants cannot enjoy being inside their home, even with the windows shut.

4 28.

5 The Frink Property consists of approximately 3.98 acres. The Frink Plaintiffs
6 reside on the Frink Property, which they purchased in 2013. The Frink Plaintiffs selected
7 the Frink Property in large part because of its quiet and tranquil setting, and they built
8 their custom home there in 2014. The eastern boundary line of the Frink Property adjoins
9 the western boundary line of the Owenby/Page Property. The Frink Plaintiffs' home is
10 approximately 30 feet from the eastern boundary line of the Frink Property, and the west
11 side of the Greenhouse is approximately 200 feet from the eastern boundary line of the
12 Frink Property. As a result, the Greenhouse is less than 250 feet from the Frink
13 Plaintiffs' home. The area where Defendants and their employees regularly burn
14 marijuana debris is approximately 140 feet from the eastern boundary line of the Frink
15 Property. The Frink Plaintiffs' master bedroom and guest bedroom windows look
16 directly out onto the Greenhouse and burn area on the Owenby/Page Property, as does the
17 Frink Plaintiffs' entire backyard. The stench of marijuana emanates from the
18 Owenby/Page Property and settles onto the Frink Property, where it stagnates. The
19 constant fan noise and marijuana stench emanating from the Owenby/Page Property
20 interferes with the Frink Plaintiffs' use and enjoyment of the Frink Property. For
21 example, because of the constant noise and odor, the Frink Plaintiffs can no longer enjoy
22 spending time on their patio, or even open the windows of their home. Worse still, the

1 persistent stench of marijuana continually invades the Frink Plaintiffs' home, permeating
2 the walls, settling onto their belongings and even into the interiors of their vehicles. The
3 noise, fumes and disruption of traffic on Hillside Lane coming to and going from the
4 marijuana production and processing facilities on the Owenby/Page Property also
5 interfere with the Frink Plaintiffs' quiet enjoyment of the Frink Property. As a direct
6 result of the presence of the Marijuana Operation next door and the traffic to and from the
7 Marijuana Operation on Hillside Lane, the Frink Plaintiffs purchased and installed a
8 surveillance system, a security system, fencing and gates.

9 29.

10 In an attempt to intimidate the Frink Plaintiffs and discourage them from further
11 objecting to the Marijuana Operation, Defendants Owenby and Brown deliberately
12 harassed the Frink Plaintiffs. On multiple occasions, when the Frink Plaintiffs were
13 outdoors on the Frink Property, Defendants Brown and Owenby attempted to conceal
14 themselves in a stand of trees on the Owenby/Page Property, spied on the Frink Plaintiffs
15 and their guests with binoculars and took photos of the Frink Plaintiffs and their guests.
16 On September 1, 2017, when the Frink Plaintiffs were hosting a gathering on the Frink
17 Property, Defendant Brown photographed each vehicle parked on the Frink Property and
18 then using the license plate numbers, obtained the name and address of the registered
19 owner of each vehicle.

20 30.

21 The Whitaker Property consists of approximately six acres, and the Whitaker
22 Plaintiffs' home was completely remodeled in 2014. The southeastern corner of the

1 Whitaker Property is directly across Hillside Lane from the northwestern corner of the
2 Owenby/Page Property. The northwestern corner of the Greenhouse is located
3 approximately 450 feet from the northwestern corner of the Owenby/Page Property, and
4 the Whitaker Plaintiffs' home is located approximately 30 feet from the southeastern
5 corner of the Whitaker Property. The constant fan noise and marijuana stench emanating
6 from the Owenby/Page Property interferes with the Whitaker Plaintiffs' use and
7 enjoyment of the Whitaker Property. For example, because of the constant noise and
8 odor, the Whitaker Plaintiffs can no longer enjoy being outside in their yard or on their
9 deck, and whenever they open the windows, the stench of marijuana fills their home. The
10 noise, fumes and disruption of traffic on Hillside Lane coming to and going from the
11 marijuana production and processing facilities on the Owenby/Page Property also
12 interfere with the Whitaker Plaintiffs' quiet enjoyment of the Whitaker Property. As a
13 direct result of the traffic to and from the marijuana operation on the Owenby/Page
14 Property, the Whitaker Plaintiffs installed fencing and gates to protect the Whitaker
15 Property.

16 31.

17 The Griswold Property consists of approximately 6.53 acres. The Griswold
18 Plaintiffs live on the Griswold Property. The entrance to the Griswold Property, which is
19 on Hillside Lane, is approximately 450 feet from the entrance to the Owenby/Page
20 Property. The Griswold Plaintiffs' home is approximately 60 feet from the entrance to
21 the Griswold Property. The fan noise and marijuana stench emanating from the
22 Owenby/Page Property interferes with the Griswold Plaintiffs' use and enjoyment of the

1 Griswold Property. For example, because of the noise and constant odor, the Griswold
2 Plaintiffs can no longer enjoy being outside in their yard and the pervasive stench of
3 marijuana completely overpowers the gentle and pleasant scents of the Griswold
4 Plaintiffs' flower gardens. Further, because of the marijuana operation on the
5 Owenby/Page Property, the Griswold Plaintiffs have been unable to entertain their
6 grandchildren and other children in the outdoor "fairy walk" the Griswold Plaintiffs built
7 on the Griswold Property, which is the setting for a children's book written by Plaintiff
8 Elaine Griswold. The noise, fumes and disruption of traffic on Hillside Lane coming to
9 and going from the marijuana production and processing facilities on the Owenby/Page
10 Property also interfere with the Griswold Plaintiffs' quiet enjoyment of the Griswold
11 Property.

12 32.

13 The Lindsey Property consists of approximately 5.1 acres. The Lindsey Plaintiffs
14 live on the Lindsey Property, which is located on Butte Creek Road, approximately 0.3
15 mile from the Owenby/Page Property. The marijuana stench emanating from the
16 Owenby/Page Property interferes with the Lindsey Plaintiffs' use and enjoyment of the
17 Lindsey Property. For example, on days when the odor is especially strong, the Lindsey
18 Plaintiffs can no longer enjoy eating meals outdoors in their yard, or entertaining guests
19 outdoors on the Lindsey Property. The noise, fumes and disruption of traffic on Butte
20 Creek Road coming to and going from the marijuana production and processing facilities
21 on the Owenby/Page Property also interfere with the Lindsey Plaintiffs' quiet enjoyment
22 of the Lindsey Property.

1 33.

2 On September 12, 2017, in an attempt to intimidate Plaintiff John Lindsey and
3 discourage him from further objecting to the Marijuana Operation, Defendants Owenby
4 and Page filed a Petition for Stalking Protective Order ("Petition") in Oregon District
5 Court for Linn County. The Petition, which Defendants Owenby and Page submitted
6 under penalty of perjury, described Defendant John Lindsey's opposition to the
7 Marijuana Operation, accusing him of "being desperate to put a stop to" the Marijuana
8 Operation and of "fueling the negativity... in an effort to rally the neighbors." The
9 Petition also described how Defendants Owenby and Page complained to the Linn
10 County Board of Commissioners about Defendant John Lindsey, who is a commissioner.
11 Notwithstanding the fact that Defendant Owenby was not present on the Owenby/Page
12 Property on September 1, 2017, the Petition contained detailed allegations about the
13 September 1, 2017 gathering at the Frink Property, and included photographs Defendant
14 Brown had taken of guests' vehicles and license plates. On September 12, 2017, the
15 Court heard and denied the Petition.

16 34.

17 Prior to the establishment of the marijuana production and processing operation
18 on the Owenby/Page Property, the Butte Creek Estates neighborhood had been crime-free
19 for decades. Since its establishment in December 2016, Plaintiffs and their neighbors no
20 longer feel safe in their own homes and on their own properties. In July 2017, despite
21 drought conditions and a state-wide ban on outdoor burning, Defendants Owenby and
22 Page and their agents burned marijuana remnants in a dry field on the Owenby/Page

1 Property with no water source available, resulting in the fire rapidly spreading out of
2 control and the Oregon Department of Forestry responding to a 911 call to extinguish the
3 fire. On several different occasions during July and August of 2017, pit bull guard dogs
4 from the marijuana production and processing operation on the Owenby/Page Property
5 roamed loose through the Butte Creek Estates neighborhood, causing Plaintiffs and their
6 neighbors to fear for the safety of people and animals. Residents on Hillside Lane and
7 Butte Creek Road regularly experience unknown vehicles entering their properties at all
8 hours of the day and night. In September 2017 alone, two reports were filed with the Linn
9 County Sheriff concerned prowling and break-ins in the Butte Creek Estates
10 Neighborhood. Concerned about the presence of a drug trafficking operation in their
11 neighborhood, Plaintiffs and their neighbors formed a neighborhood watch group, began
12 to lock their doors, purchased and installed cameras and security systems, purchased and
13 installed fencing and gates, and purchased firearms.

14 35.

15 The marijuana production and processing operation on the Owenby/Page Property
16 not only unreasonably interferes with Plaintiffs' quiet enjoyment of their properties, the
17 operation also has a material adverse impact on the market value of Plaintiffs' properties.
18 Many prospective purchasers will find the mere existence of a marijuana operation in the
19 Butte Creek Estates neighborhood distasteful because of its patently illegal nature and
20 reputation for attracting burglaries, armed robberies, conflicts involving firearms, and
21 other types of dangerous criminal activity. No prospective purchaser who visits Plaintiffs'
22 properties for more than a few minutes could fail to notice the traffic, odor and noise

1 associated with the marijuana operation on the Owenby/Page Property. And if the
 2 prevailing winds are unfavorable, prospective purchasers might very well end their
 3 viewing of Plaintiffs' properties without ever getting out of their vehicles. No one's idea
 4 of a dream home includes noxious odors, invasive and persistent racket, heavy
 5 commercial traffic or a location adjacent to an illegal drug manufacturing site. As a
 6 result, Plaintiffs' properties are each worth materially less than they otherwise would be,
 7 and will be harder to sell at any price. Even persons interested in setting up a marijuana
 8 operation will find Plaintiffs' properties unattractive, because they are all zoned "rural
 9 residential" and Linn County Code prohibits commercial marijuana production in such
 10 zones.

FACTUAL ALLEGATIONS COMMON TO ALL RICO CLAIMS

Federal Law Prohibits the Production and Distribution of Marijuana

13 36.

14 Marijuana is a Schedule I drug under the Controlled Substances Act of 1970
 15 ("Controlled Substances Act"), and its manufacture, distribution and possession are
 16 federal criminal offenses. *See* 21 U.S.C. § 812, 823, 841, 844. In addition to prohibiting
 17 producing, possessing and selling marijuana, the Controlled Substances Act also forbids a
 18 wide range of other activities connected with the operations of a marijuana business. It is
 19 a crime to possess "any equipment, chemical, product or material" with the intent of
 20 using it to manufacture marijuana, or to distribute any such material with the knowledge
 21 that it will be used to manufacture marijuana. *Id.*, § 843(a)(6) and (7). The Controlled
 22 Substances Act prohibits using a telephone, email, mail or any other "communication

1 facility” to further the manufacture or sale of marijuana, and it is a federal crime to use
2 the Internet to advertise marijuana for sale. *Id.*, § 843(b) and 843(c)(2)(A). Reinvesting
3 the proceeds from marijuana operations is also a crime, as is knowingly facilitating a
4 financial transaction involving funds derived from manufacturing and selling marijuana.
5 *Id.*, § 854(a) and 18 U.S.C. § 1956(a)(1), 1956(h) and 1957(a).

6 37.

7 These criminal prohibitions on virtually every aspect of the marijuana business
8 make the federal policy unmistakably clear: Marijuana is a dangerous drug banned
9 throughout the United States. And because RICO defines most Controlled Substances
10 Act violations as “racketeering activity,” any business engaged in the production and sale
11 of marijuana is a criminal enterprise for the purposes of federal law. 18 U.S.C. §
12 1961(1)(D). Those who conduct, participate in or conspire to assist such enterprises are
13 subject to the severe criminal sanctions and civil liability RICO imposes.

14 38.

15 Despite the strict federal prohibitions on virtually every aspect of the marijuana
16 business, Oregon has adopted a regulatory scheme intended to promote, regulate and tax
17 this illegal industry. However, the State of Oregon has no power to do so. The
18 Supremacy Clause contained in Article VI of the United States Constitution provides the
19 “Constitution and the Laws of the United States” are “the supreme Law of the Land.”
20 Accordingly, state laws contrary to federal law are null and void. If the citizens of
21 Oregon want to change marijuana law, they must do so via their elected representatives in
22 Congress, not at the state ballot box.

**Defendants Violated the Controlled Substances Act
and Engaged in Money Laundering**

39.

Each Defendant is an individual or entity capable of holding a legal or beneficial interest in property.

40.

For their mutual and individual profit, all Defendants formed the Marijuana Operation, an association in fact, for the purpose of producing, processing and distributing marijuana. Given the strict federal prohibitions against each of those purposes, Defendants knew these purposes could only be accomplished via a pattern of racketeering. In furtherance of that goal, Defendants pooled their resources and achieved enterprise efficiency that no one Defendant could have achieved individually.

41.

Defendants Owenby and Page conspired with each other, the Templeton Defendants and Defendants Silveira and Brown to violate 21 U.S.C. § 856(a) by using the Owenby/Page Property to produce and process marijuana, to violate 21 U.S.C. § 843(a)(6) by purchasing and installing structures, equipment, fixtures and materials on the Owenby/Page Property for the purposes of producing and processing marijuana, and to violate 21 U.S.C. § 841(a)(1) by producing marijuana, possessing marijuana with intent to distribute and distributing marijuana.

42.

Defendants Owenby and Page, the Templeton Defendants and Defendants

1 Silveira and Brown violated 21 U.S.C. § 843(a)(6) by purchasing and installing
2 equipment, fixtures and materials on the Owenby/Page Property for the purpose of
3 producing and processing marijuana.

4 43.

5 In violation of 21 U.S.C. § 843(a)(6), Defendants Owenby and Page, the
6 Templeton Defendants and Defendants Silveira and Brown converted a shop building on
7 the Owenby/Page Property into a fully operational marijuana production and processing
8 facility.

9 44.

10 Defendants Owenby and Page, the Templeton Defendants and Defendants
11 Silveira and Brown violated 21 U.S.C. § 843(a)(6) by erecting a large commercial
12 greenhouse on the Owenby/Page Property for the purpose of producing marijuana.

13 45.

14 Defendants Owenby and Page, the Templeton Defendants and Defendants
15 Silveira and Brown conspired with Defendant Philp to violate 21 U.S.C. § 841(a)(1) by
16 producing and processing marijuana on the Owenby/Page Property.

17 46.

18 Defendants Owenby and Page, the Templeton Defendants and Defendants
19 Silveira, Brown and Philp violated 21 U.S.C. § 841(a)(1) by producing and processing
20 marijuana on the Owenby/Page Property. Such Defendants also violated 21 U.S.C. §
21 841(a)(1) by possessing marijuana with the intent to distribute it.

22

1 47.

2 Defendants Owenby and Page, the Templeton Defendants and Defendants
3 Silveira, Brown and Philp conspired with each other to violate 21 U.S.C. § 841(a)(1) by
4 distributing marijuana, and violated 21 U.S.C. § 841(a)(1) by distributing marijuana
5 produced and processed on the Owenby/Page Property.

6 48.

7 Defendant Guild holds the mortgage on the Owenby/Page Property. As the
8 mortgagee of the Owenby/Page Property, Defendant Guild controls the Owenby/Page
9 Property. In violation of 18 U.S.C. § 856(a)(2), since September 1, 2017, Defendant
10 Guild has knowingly permitted the production and processing of marijuana to continue
11 on the Owenby/Page Property, and derived a profit from such activity via the monthly
12 mortgage payments it received. Since September 1, 2017, in violation of 21 U.S.C. §
13 843(b), Defendant Guild has communicated via mail with Defendants Owenby and Page
14 to facilitate use of the Owenby/Page Property in violation of 18 U.S.C. § 856(a)(2).

15 49.

16 To facilitate their violations of the Controlled Substances Act, each of the
17 Templeton Defendants and Defendants Owenby, Page, Silveira, Brown and Philp
18 violated 21 U.S.C. § 843(b) by communicating via telephone, text messaging, email and
19 social media.

20 50.

21 Each of the Templeton Defendants and Defendants Owenby, Page, Silveira,
22 Brown and Philp violated 18 U.S.C. § 1956(a)(1)(A)(i) by engaging in a series of

1 financial transactions in which they knowingly received proceeds from the production,
 2 processing and distribution of marijuana, including marijuana produced on the
 3 Owenby/Page Property, with the intent to promote such illegal activities. Each of the
 4 Templeton Defendants and Defendants Owenby, Page, Silveira, Brown and Philp
 5 violated 18 U.S.C. § 1956(a)(1)(B)(i) by knowingly engaging in a series of financial
 6 transactions involving the proceeds of marijuana production, processing and distribution
 7 that they knew were designed to conceal the illegal nature and/or source of such
 8 proceeds.

9 **Defendants' Marijuana Activities Affected Interstate Commerce**

10 51.

11 In January 2017, the Drug Enforcement Section of the Oregon State Police
 12 published a report entitled "A Baseline Evaluation of Cannabis Priorities in Oregon."
 13 The report stated, among other findings, "Diverted Oregon cannabis has an expansive
 14 geographic footprint and has been detected outside of the United States... Oregon
 15 originated cannabis is trafficked to known distribution hubs across the Southeastern,
 16 Midwestern, and Northeastern United States."

17 52.

18 Defendants' marijuana activities directly affected interstate commerce. Each
 19 Defendant received proceeds from the production, processing and distribution of
 20 marijuana, deposited proceeds into the federal banking system, and used proceeds to
 21 purchase goods and services that traveled in interstate commerce. The Marijuana
 22 Operation, including marijuana production and processing on the Owenby/Page Property,

1 was developed and operated with funds, goods and services that traveled in interstate
2 commerce. Defendants Owenby and Page used proceeds from marijuana produced and
3 processed on the Owenby/Page Property in Oregon to pay Defendant Guild in California.

4 **FIRST CLAIM FOR RELIEF**

5 **Violation of 18 U.S.C. § 1962(c) and (d)**

6 **By the Ainsworth Plaintiffs against All Defendants**

7 53.

8 Plaintiffs incorporate by reference and reallege the preceding paragraphs.

9 54.

10 As described herein, at all relevant times, the Marijuana Operation was an
11 “association in fact” and therefore an “enterprise” as defined in 18 U.S.C. § 1961(4).

12 55.

13 As described herein, each Defendant directed and/or conducted the affairs of the
14 Marijuana Operation.

15 56.

16 As described herein, each Defendant violated 18 U.S.C. § 1962(d) by conspiring
17 to violate 18 U.S.C. § 1962(c), and each Defendant also violated 18 U.S.C. § 1962(c) by
18 conducting and/or participating in the Marijuana Operation’s affairs through a pattern of
19 racketeering.

20 57.

21 As described herein, the Marijuana Operation’s activities affected interstate
22 commerce.

1 58.

2 As described herein, Defendants' violations of 18 U.S.C. § 1962(c) and (d)
 3 directly and proximately injured the Ainsworth Property by interfering with the
 4 Ainsworth Plaintiffs' use and enjoyment of the Ainsworth Property, burdening it with
 5 noxious odors and noise pollution, diminishing its market value and making it more
 6 difficult to sell.

7 59.

8 Pursuant to 18 U.S.C. § 1964(c), the Ainsworth Plaintiffs are entitled to treble
 9 damages for the injury to the Ainsworth Property, and to attorneys' fees and costs.

10 **SECOND CLAIM FOR RELIEF**

11 **Violation of 18 U.S.C. § 1962(c) and (d)**

12 **By the Frink Plaintiffs against All Defendants**

13 60.

14 Plaintiffs incorporate by reference and reallege the preceding paragraphs.

15 61.

16 As described herein, at all relevant times, the Marijuana Operation was an
 17 "association in fact" and therefore an "enterprise" as defined in 18 U.S.C. § 1961(4).

18 62.

19 As described herein, each Defendant directed and/or conducted the affairs of the
 20 Marijuana Operation.

21 63.

22 As described herein, each Defendant violated 18 U.S.C. § 1962(d) by conspiring

1 to violate 18 U.S.C. § 1962(c), and each Defendant also violated 18 U.S.C. § 1962(c) by
2 conducting and/or participating in the Marijuana Operation's affairs through a pattern of
3 racketeering.

4 64.

5 As described herein, the Marijuana Operation's activities affected interstate
6 commerce.

7 65.

8 As described herein, Defendants' violations of 18 U.S.C. § 1962(c) and (d)
9 directly and proximately injured the Frink Property by interfering with the Frink
10 Plaintiffs' use and enjoyment of the Frink Property, burdening it with noxious odors,
11 traffic and noise pollution, diminishing its market value and making it more difficult to
12 sell.

13 66.

14 Pursuant to 18 U.S.C. § 1964(c), the Frink Plaintiffs are entitled to treble damages
15 for the injury to the Frink Property, and to attorneys' fees and costs.

16 **THIRD CLAIM FOR RELIEF**

17 **Violation of 18 U.S.C. § 1962(c) and (d)**

18 **By the Whitaker Plaintiffs against All Defendants**

19 67.

20 Plaintiffs incorporate by reference and reallege the preceding paragraphs.

21 68.

22 As described herein, at all relevant times, the Marijuana Operation was an

1 “association in fact” and therefore an “enterprise” as defined in 18 U.S.C. § 1961(4).

2 69.

3 As described herein, each Defendant directed and/or conducted the affairs of the
4 Marijuana Operation.

5 70.

6 As described herein, each Defendant violated 18 U.S.C. § 1962(d) by conspiring
7 to violate 18 U.S.C. § 1962(c), and each Defendant also violated 18 U.S.C. § 1962(c) by
8 conducting and/or participating in the Marijuana Operation’s affairs through a pattern of
9 racketeering.

10 71.

11 As described herein, the Marijuana Operation’s activities affected interstate
12 commerce.

13 72.

14 As described herein, Defendants’ violations of 18 U.S.C. § 1962(c) and (d)
15 directly and proximately injured the Whitaker Property by interfering with the Whitaker
16 Plaintiffs’ use and enjoyment of the Whitaker Property, burdening it with noxious odors,
17 traffic and noise pollution, diminishing its market value and making it more difficult to
18 sell.

19 73.

20 Pursuant to 18 U.S.C. § 1964(c), the Whitaker Plaintiffs are entitled to treble
21 damages for the injury to the Whitaker Property, and to attorneys’ fees and costs.
22

FOURTH CLAIM FOR RELIEF

Violation of 18 U.S.C. § 1962(c) and (d)

By the Griswold Plaintiffs against All Defendants

74.

Plaintiffs incorporate by reference and reallege the preceding paragraphs.

75.

As described herein, at all relevant times, the Marijuana Operation was an “association in fact” and therefore an “enterprise” as defined in 18 U.S.C. § 1961(4).

76.

As described herein, each Defendant directed and/or conducted the affairs of the Marijuana Operation.

77.

As described herein, each Defendant violated 18 U.S.C. § 1962(d) by conspiring to violate 18 U.S.C. § 1962(c), and each Defendant also violated 18 U.S.C. § 1962(c) by conducting and/or participating in the Marijuana Operation’s affairs through a pattern of racketeering.

78.

As described herein, the Marijuana Operation’s activities affected interstate commerce.

79.

As described herein, Defendants’ violations of 18 U.S.C. § 1962(c) and (d) directly and proximately injured the Griswold Property by interfering with the Griswold

1 Plaintiffs' use and enjoyment of the Griswold Property, burdening it with noxious odors,
2 traffic and noise pollution, diminishing its market value and making it more difficult to
3 sell.

4 80.

5 Pursuant to 18 U.S.C. § 1964(c), the Griswold Plaintiffs are entitled to treble
6 damages for the injury to the Griswold Property, and to attorneys' fees and costs.

7 **FIFTH CLAIM FOR RELIEF**

8 **Violation of 18 U.S.C. § 1962(c) and (d)**

9 **By the Lindsey Plaintiffs against All Defendants**

10 81.

11 Plaintiffs incorporate by reference and reallege the preceding paragraphs.

12 82.

13 As described herein, at all relevant times, the Marijuana Operation was an
14 "association in fact" and therefore an "enterprise" as defined in 18 U.S.C. § 1961(4).

15 83.

16 As described herein, each Defendant directed and/or conducted the affairs of the
17 Marijuana Operation.

18 84.

19 As described herein, each Defendant violated 18 U.S.C. § 1962(d) by conspiring
20 to violate 18 U.S.C. § 1962(c), and each Defendant also violated 18 U.S.C. § 1962(c) by
21 conducting and/or participating in the Marijuana Operation's affairs through a pattern of
22 racketeering.

1 85.

2 As described herein, the Marijuana Operation's activities affected interstate
3 commerce.

4 86.

5 As described herein, Defendants' violations of 18 U.S.C. § 1962(c) and (d)
6 directly and proximately injured the Lindsey Property by interfering with the Lindsey
7 Plaintiffs' use and enjoyment of the Lindsey Property, burdening it with noxious odors
8 and traffic, diminishing its market value and making it more difficult to sell.

9 87.

10 Pursuant to 18 U.S.C. § 1964(c), the Lindsey Plaintiffs are entitled to treble
11 damages for the injury to the Lindsey Property, and to attorneys' fees and costs.

12 **SIXTH CLAIM FOR RELIEF**

13 **Private Nuisance**

14 **By the Ainsworth Plaintiffs against All Defendants**

15 88.

16 Plaintiffs incorporate by reference and reallege the preceding paragraphs.

17 89.

18 As described herein, all Defendants participated in directing and/or conducting
19 the Marijuana Operation.

20 90.

21 As described herein, Defendants' conduct of the Marijuana Operation caused a
22 substantial and unreasonable interference with the Ainsworth Plaintiffs' use and

1 enjoyment of the Ainsworth Property.

2 91.

3 Defendants are not entitled to “right to farm” immunity pursuant to ORS 30.936
4 because Defendants’ use of the Owenby/Page Property does not comply with applicable
5 laws. For example, the Owenby/Page Property is zoned “rural residential” and therefore
6 Defendants’ use of the Owenby/Page Property to produce and process marijuana
7 commercially violates Linn County Ordinance 940.400(A) and 940.500(A).

8 92.

9 Accordingly, the Ainsworth Plaintiffs are entitled to compensatory damages.

10 **SEVENTH CLAIM FOR RELIEF**

11 **Private Nuisance**

12 **By the Frink Plaintiffs against All Defendants**

13 93.

14 Plaintiffs incorporate by reference and reallege the preceding paragraphs.

15 94.

16 As described herein, all Defendants participated in directing and/or conducting
17 the Marijuana Operation.

18 95.

19 As described herein, Defendants’ conduct of the Marijuana Operation caused a
20 substantial and unreasonable interference with the Frink Plaintiffs’ use and enjoyment of
21 the Frink Property. In addition to the interference previously described, the stench of
22 marijuana invading the Frink Property has caused Plaintiff Lucinda Frink to suffer

1 regularly from nausea, headaches, itchy and watery eyes, coughing, a sore throat and
2 nasal congestion. Plaintiff Karl Frink also regularly suffers from headaches as a direct
3 result of the marijuana stench emanating from the Owenby/Page Property, and the stench
4 of marijuana regularly has caused Plaintiff Karl Frink to awaken periodically during the
5 night, interfering with his ability to obtain sufficient rest.

6 96.

7 Defendants are not entitled to “right to farm” immunity pursuant to ORS 30.936
8 because Defendants’ use of the Owenby/Page Property does not comply with applicable
9 laws. For example, the Owenby/Page Property is zoned “rural residential” and therefore
10 Defendants’ use of the Owenby/Page Property to produce and process marijuana violates
11 Linn County Ordinance 940.400(A) and 940.500(A).

12 97.

13 Accordingly, the Frink Plaintiffs are entitled to compensatory damages.

14 **EIGHTH CLAIM FOR RELIEF**

15 **Private Nuisance**

16 **By the Whitaker Plaintiffs against All Defendants**

17 98.

18 Plaintiffs incorporate by reference and reallege the preceding paragraphs.

19 99.

20 As described herein, all Defendants participated in directing and/or conducting
21 the Marijuana Operation.
22

100.

As described herein, Defendants' conduct of the Marijuana Operation caused a substantial and unreasonable interference with the Whitaker Plaintiffs' use and enjoyment of the Whitaker Property.

101.

Defendants are not entitled to "right to farm" immunity pursuant to ORS 30.936 because Defendants' use of the Owenby/Page Property does not comply with applicable laws. For example, the Owenby/Page Property is zoned "rural residential" and therefore Defendants' use of the Owenby/Page Property to produce and process marijuana commercially violates Linn County Ordinance 940.400(A) and 940.500(A).

102.

Accordingly, the Whitaker Plaintiffs are entitled to compensatory damages.

NINTH CLAIM FOR RELIEF

Private Nuisance

By the Griswold Plaintiffs against All Defendants

103.

Plaintiffs incorporate by reference and reallege the preceding paragraphs.

104.

As described herein, all Defendants participated in directing and/or conducting the Marijuana Operation.

105.

As described herein, Defendants' conduct of the Marijuana Operation caused a

1 substantial and unreasonable interference with the Griswold Plaintiffs' use and enjoyment
2 of the Griswold Property.

3 106.

4 Defendants are not entitled to "right to farm" immunity pursuant to ORS 30.936
5 because Defendants' use of the Owenby/Page Property does not comply with applicable
6 laws. For example, the Owenby/Page Property is zoned "rural residential" and therefore
7 Defendants' use of the Owenby/Page Property to produce and process marijuana
8 commercially violates Linn County Ordinance 940.400(A) and 940.500(A).

9 107.

10 Accordingly, the Griswold Plaintiffs are entitled to compensatory damages.

11 **TENTH CLAIM FOR RELIEF**

12 **Private Nuisance**

13 **By the Lindsey Plaintiffs against All Defendants**

14 108.

15 Plaintiffs incorporate by reference and reallege the preceding paragraphs.

16 109.

17 As described herein, all Defendants participated in directing and/or conducting
18 the Marijuana Operation.

19 110.

20 As described herein, Defendants' conduct of the Marijuana Operation caused a
21 substantial and unreasonable interference with the Lindsey Plaintiffs' use and enjoyment
22 of the Lindsey Property.

111.

Defendants are not entitled to “right to farm” immunity pursuant to ORS 30.936 because Defendants’ use of the Owenby/Page Property does not comply with applicable laws. For example, the Owenby/Page Property is zoned “rural residential” and therefore Defendants’ use of the Owenby/Page Property to produce and process marijuana commercially violates Linn County Ordinance 940.400(A) and 940.500(A).

112.

Accordingly, the Lindsey Plaintiffs are entitled to compensatory damages.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for judgment as follows:

First Claim for Relief - Violation of 18 U.S.C. § 1962(c) and (d)

By the Ainsworth Plaintiffs against All Defendants

1. For three times the damages to the Ainsworth Property caused by Defendants’ racketeering activities;
2. For an award of attorneys’ fees and costs; and
3. For such other and further relief as the Court shall deem equitable.

Second Claim for Relief - Violation of 18 U.S.C. § 1962(c) and (d)

By the Frink Plaintiffs against All Defendants

1. For three times the damages to the Frink Property caused by Defendants’ racketeering activities;
2. For an award of attorneys’ fees and costs; and
3. For such other and further relief as the Court shall deem equitable.

1 Third Claim for Relief - Violation of 18 U.S.C. § 1962(c) and (d)

2 By the Whitaker Plaintiffs against All Defendants

- 3 4. For three times the damages to the Whitaker Property caused by
4 Defendants' racketeering activities;
5 5. For an award of attorneys' fees and costs; and
6 6. For such other and further relief as the Court shall deem equitable.

7 Fourth Claim for Relief - Violation of 18 U.S.C. § 1962(c) and (d)

8 By the Griswold Plaintiffs against All Defendants

- 9 7. For three times the damages to the Griswold Property caused by
10 Defendants' racketeering activities;
11 8. For an award of attorneys' fees and costs; and
12 9. For such other and further relief as the Court shall deem equitable.

13 Fifth Claim for Relief - Violation of 18 U.S.C. § 1962(c) and (d)

14 By the Lindsey Plaintiffs against All Defendants

- 15 10. For three times the damages to the Lindsey Property caused by
16 Defendants' racketeering activities;
17 11. For an award of attorneys' fees and costs; and
18 12. For such other and further relief as the Court shall deem equitable.

19 Sixth Claim for Relief – Private Nuisance

20 By the Ainsworth Plaintiffs against All Defendants

- 21 13. For compensatory damages;
22 14. For an award of costs; and

1 15. For such other and further relief as the Court shall deem equitable.

2 **Seventh Claim for Relief – Private Nuisance**

3 **By the Frink Plaintiffs against All Defendants**

4 1. For compensatory damages;

5 2. For an award of costs; and

6 3. For such other and further relief as the Court shall deem equitable.

7 **Eighth Claim for Relief – Private Nuisance**

8 **By the Whitaker Plaintiffs against All Defendants**

9 1. For compensatory damages;

10 2. For an award of costs; and

11 3. For such other and further relief as the Court shall deem equitable.

12 **Ninth Claim for Relief – Private Nuisance**

13 **By the Griswold Plaintiffs against All Defendants**

14 4. For compensatory damages;

15 5. For an award of costs; and

16 6. For such other and further relief as the Court shall deem equitable.

17 **Tenth Claim for Relief – Private Nuisance**

18 **By the Lindsey Plaintiffs against All Defendants**

19 7. For compensatory damages;

20 8. For an award of costs; and

21 9. For such other and further relief as the Court shall deem equitable.

1 DATED December 1, 2017

2
3 /s/ Rachel E. Kosmal McCart

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